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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/764,558	01/18/2001	Vincent P. Annunziata	03169- P0003B	6841
7590	11/16/2007		EXAMINER	
Paul E Schaafsma NovusIP, LLC 521 West Superior Street, Suite 221 Chicago, IL 60610-3135			TINKLER, MURIEL S	
			ART UNIT	PAPER NUMBER
			3691	
			MAIL DATE	DELIVERY MODE
			11/16/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/764,558	ANNUNZIATA, VINCENT P.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Muriel Tinkler	3691	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 20 August 2007.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-25 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-25 is/are rejected.
- 7) Claim(s) 25 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date <u>4/12/2005</u>	6) <input type="checkbox"/> Other: _____

### **DETAILED ACTION**

This application has been reviewed. Claims 1-25 are pending. The objection(s) and rejection(s) are as follows.

#### ***Response to Amendment***

1. The Applicant has amended claims 1 and 24 with the current submission of this application on August 20, 2007. The above mentioned amendments were compared against the specification and accepted for review.

#### ***Response to Arguments***

2. Applicant's arguments with respect to claims 1-24 and 26 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Claim Objections***

3. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claim 26 has been renumbered claim 25.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-17 and 21-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bettis et al. (US 7,016,872) in view of Davis et al. (US 6,030,288), hereafter referred to as Bettis and Davis respectively.

6. Regarding claims 1 and 12, Bettis discloses:

- a. Commodities trading in column 15 (lines 41-67)
- b. A computer network in column 2 (lines 50-67) and column 13 (lines 38-45)
- c. Database for storing player files and indication(s) submitted by players in column 1 (lines 57-64) and column 4 (lines 32-44)
- d. A player score in the Abstract
- e. An indication selected by a player in column 2 (lines 33-49)
- f. Software for selecting and receiving indications from a player in column 2 (lines 33-49)
- g. Retrieving game ending criteria, ceasing game play and retrieving scoring criteria in the Abstract
- h. Retrieving player portfolio in column 2 (lines 22-32)
- i. Comparing and ranking players (top ranked player can be inferred as 'winner') in the Abstract

7. Bettis does not specifically disclose a winner in a game. Davis discloses a winner in paragraph 234 and the end of a game in paragraph 104. Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify Bettis to include a 'winner' at the end of the game because it would clearly define when a game has ended and who is determined to have completed the game with the best ranking. Also, the use of a game simulation allows users to practice and become familiar with a topic before they are to perform.

8. Regarding claim 2, Bettis does not disclose the use of a database for controlling the game flow. Davis teaches the use of a database that contains rules for controlling game flow in the Abstract. See also the rejection of claim 1 above. Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify Bettis to include a database for controlling game flow because it stores the information necessary to performing the gaming functions.

9. Regarding claim 3, Bettis discloses the valuation of the current portfolio and stocks pricing in column 2 (lines 22-32).

10. Regarding claim 4, Bettis discloses an expiring time period in column 5 (lines 28-48).

11. Regarding claims 5 and 7, Bettis does not disclose rules for game ending criteria. Davis teaches rules for game ending criteria based on predetermined game rules in figure 18. Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify Bettis to include rules for game ending criteria because it provides clear rules for the ending of the simulation.

12. Regarding claim 6, Bettis discloses generating a portfolio in column 2 (lines 9-21).
13. Regarding claim 8, Bettis discloses players beginning the game with predetermined commodities in column 2 (lines 22-32).
14. Regarding claims 9 and 10, Bettis discloses a submission form containing a proposed bid/offer in figure 5; and, updating scores in column 4 (lines 54-67).
15. Regarding claim 11, Bettis does not disclose software for retrieving game rules and determining a violation. Davis teaches software that retrieves game rules and determines a violation in column 25 (lines 15-31).
16. Regarding claims 13 and 21, Bettis does not disclose the use of selecting formatting. Davis teaches the use of custom formatting in Table 5, column 20(line 35) through column 21 (line 55) and column 21 (lines 63-67).
17. Regarding claim 14, Bettis discloses the act of sorting in column 5 (lines 28-48).
18. Regarding claim 15, Bettis discloses selecting content in column 2 (lines 22-32).
19. Regarding claim 16, Bettis does not disclose a request to register or a completed registration form. Davis teaches a request to register in column 7 (lines 24-30) and completing a registration form in column 7 (line 66) through column 8 (line 26).
20. Regarding claim 17, Bettis discloses the use of the Internet in figure 20.
21. Regarding claims 22 and 23, Bettis discloses a tabular format for reviewing current bids/offers in figure 5. Bettis does not disclose the act of viewing indications at real time. Davis teaches the act of viewing indications at real-time in column 15 (lines 1-12). Therefore, it would have been obvious to a person having ordinary skill in the art

at the time the invention was made to modify Bettis to include the act of viewing indications at real time so that the players have the most up to date information when placing bids.

22. Regarding claim 24, see the rejection(s) of claims 1, 9 and 10 above.
23. Claims 19-20 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bettis and Davis as applied to claims 1 and 2 above, and further in view of Sernet (US 2002/0032632), hereafter referred to as Sernet.
24. Regarding claims 18-20, Bettis and Davis do not disclose criteria for and types of gaming rules. Sernet teaches user defined limits (pre-defined game limits/rules) in paragraph 28. Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify Bettis and Davis to include gaming limits because it provides a clear set of constraints for users to follow.
25. Regarding claim 26, see the rejection(s) of claims 1, 6 and 18-20 above.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Muriel Tinkler whose telephone number is (571)272-7976. The examiner can normally be reached on Monday through Friday from 7:30 AM until 4 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on (571)272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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November 13, 2007



HANI M. KAZIMI  
PRIMARY EXAMINER